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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,138	08/18/2003	Cyrille de Brebisson	200208573-1	3281

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EXAMINER

PATEL, HETUL B

ART UNIT PAPER NUMBER

2186

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/643,138	Applicant(s) DE BREBISSEON, CYRILLE	
	Examiner Hetul Patel	Art Unit 2186	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10, 11, 13-16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11, 13 and 14 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-8, 10, 15, 16 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)     | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This action is responsive to communication filed on November 09, 2005. This amendment has been entered and carefully considered. Claims 9, 12 and 17 are cancelled and claims 1-8, 10-11, 13-16 and 18 are presented again for examination.
2. Claims 11, 13 and 14 are allowed.
3. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Objections*

4. Claims 7 and 15 are objected to because of the following informalities:

It is not clear that lines 5 and 6 of amended claim 7 refer to either first data or the volatile memory. Similarly, it is not clear that lines 10 and 11 of amended claim 7 refer to either second data or the volatile memory. Therefore, it is suggested to modify lines 4-6 and 9-11 of claim 7 as shown below:

Line 4: identifying first data stored in the volatile memory, wherein either

Line 5: a) the first data is not also stored in the non-volatile memory; [and] or

Line 6: b) the volatile memory is not disk cache; and

Line 9: identifying second data stored in the volatile memory, wherein either

Line 10: a) the second data is stored in the non-volatile memory; [and] or

Line 11: b) the volatile memory is disk cache; and

Claim 15 is also objected for same reasons and similar modifications are suggested for claim 15, too. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Atkinson et al. (USPN: 6,546,472) hereinafter, Atkinson.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

As per claim 1, Atkinson teaches a method for storing data on a computer system, the computer system having volatile memory (i.e. page A – page D in 125 in Fig. 1) and non-volatile memory (i.e. 170 in Fig. 1), the volatile memory comprising a

volatile memory device (i.e. 125 in Fig. 1), said method comprising identifying a first portion of the volatile memory device that is being used to store data; identifying a second portion of the volatile memory device that is not being used to store data; and in response to an input corresponding to a power-off condition of the computer system, saving the data corresponding to the first portion of the volatile memory device in the non-volatile memory without saving the data corresponding to the second portion of the volatile memory device in the non-volatile memory (e.g. see Col. 4, lines 49-55).

As per claim 2, Atkinson teaches the claimed invention as described above and furthermore, Atkinson teaches that the method further comprising compressing the data corresponding to the first portion of the volatile memory device as first compressed data; and wherein saving the data corresponding to the first portion of the volatile memory device comprises saving the first compressed data in the non-volatile memory (e.g. see Col. 3, lines 14-16).

As per claim 3, Atkinson teaches the claimed invention as described above and furthermore, Atkinson teaches that the volatile memory device (i.e. 125 in Fig. 1) is the system memory and it does not include disk cache (e.g. see Col. 6, lines 29-33 and Fig. 1).

As per claim 4, Atkinson teaches the claimed invention as described above and furthermore, Atkinson teaches that a copy of the data corresponding to the first portion of the volatile memory device is not also stored in the non-volatile memory prior to the identifying step (e.g. see Col. 4, lines 49-55).

***Allowable Subject Matter***

6. Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Claims 7-8, 10, 15-16 and 18 would be allowable if rewritten appropriately to overcome objections recited in paragraph 4 of this office action.
8. Claims 11, 13 and 14 are allowed.

***Remarks***

9. As to the remark, Applicant asserted that
  - (a) Reneris generally relates to a computer system that flushes its disk cache responsive to turning of the disk drive motor when in a hibernation state. However, the disk cache of Reneris is flushed regardless of whether or not the disk cache is storing data. This is in direct contrast to the limitation recited in Applicant's amended claim 1.
  - (b) With respect to Atkinson, that reference appears to refer to saving of data responsive to determining that the data has changed since a last save. However, these teachings appear to differ from the features recited in claim 1, in that claim 1 does not require a change in data from the time the data was saved. On the contrary claim 1 recites "saving the data corresponding to the first portion of the volatile memory device in the non-volatile memory without saving the data corresponding to the second portion of the volatile memory

device in the non-volatile memory” based on whether or not there is data in those portions.

Examiner respectfully traverses Applicant's remark for the following reasons:

With respect to (a), Examiner agreed with the Applicant's argument regarding Reneris prior art. Therefore, the rejection of claims 1-4 based on Reneris has been withdrawn.

With respect to (b), Atkinson prior art still reads on the amended claim 1 because the amended claim 1 does not specifically recite about saving both modified/changed data and unmodified/unchanged data from the first portion of the volatile memory device in the non-volatile memory.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hetul Patel whose telephone number is 571-272-4184. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Kim can be reached on 571-272-4182. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2186

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**MATTHEW D. ANDERSON**  
**PRIMARY EXAMINER**